

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT BABUR BASAT, #472479,

Petitioner,

v.

CASE NO. 2:08-CV-13743
HONORABLE DENISE PAGE HOOD

THOMAS BELL,

Respondent.

**ORDER GRANTING PETITIONER'S MOTION TO REOPEN TIME TO FILE AN
APPEAL, BUT AFFIRMING DENIAL OF A CERTIFICATE OF APPEALABILITY**

Petitioner has filed a motion to reopen the time to file an appeal concerning this Court's denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner seeks to reopen the time for seeking an appeal pursuant to Federal Rule of Appellate Procedure 4(a)(6) because he did not learn of the Court's December 22, 2010 decision denying his petition until April 1, 2011 and did not receive a copy of the decision until April 7, 2011.

Federal Rule of Appellate Procedure 4(a)(6) provides:

The district court may reopen the time to file an appeal for a period of 14 days after the date when its order to reopen is entered, but only if all the following conditions are satisfied:

(A) the court finds that the moving party did not receive notice under Federal Rule of Civil Procedure 77(d) of the entry of the judgment or order sought to be appealed from within 21 days after entry;

(B) the motion is filed within 180 days after the judgment or order is entered or within 14 days after the moving party receives notice under Federal Rule of Civil Procedure 77(d) of the entry, whichever is earlier; and

(C) the court finds that no party would be prejudiced.

Fed. R. App. P. 4(a)(6).

The Court finds that Petitioner has satisfied these requirements. His pleadings indicate that he did not receive a copy of the Court's decision until April 7, 2011, he filed the instant request within 180 days of the dismissal order and within 14 days of receiving notice of the dismissal, and there is no prejudice to the parties. The Court therefore **GRANTS** Petitioner's motion to reopen the time to file an appeal. Petitioner shall have 14 days from the filing date of this order to file a notice of appeal. This Order does not alter the Court's previous determination denying habeas relief and denying a certificate of appealability.

IT IS SO ORDERED.

s/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: May 2, 2011

I hereby certify that a copy of the foregoing document was served upon Robert Basat #472479, Gus Harrison Correctional Facility, 2727 E. Beecher Street, Adrian, MI 49221 and counsel of record on May 2, 2011, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry
Case Manager